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DECEIT—HONEST BELIEF AS DEFENSE—RESPONSIBILITY OF DIRECTORS.—The defendants, directors of a corporation, with a belief in its truth, adopted and approved a prospectus containing a statement by the president, *inter alia*, as to the capacity of their plant. In an action for deceit by the plaintiff, who had bought stock in reliance on the prospectus, this and other material statements therein were found false. *Held*, it was error to charge that the defendants were liable "if they had reasonable opportunity to ascertain" the truth; *scienter*, the purpose to deceive, was necessary. *Reno v. Bull* (N. Y. Ct. of App. 1919) 61 N. Y. L. J. 1707.

One who asserts as of his own knowledge a fact susceptible of actual knowledge and of which special knowledge can be predicated, commits a fraud if his representation prove untrue, despite an honest belief therein, 11 Columbia Law Rev. 376, which would be a justification for a false statement of opinion. *Haycraft v. Creasy* (1801) 2 East 92. The fraud lies in the affirmation of positive knowledge of what is only a matter of belief. *Hadcock v. Osmer* (1897) 153 N. Y. 604, 47 N. E. 92; *Cabot v. Christie* (1864) 42 Vt. 121. Does an unqualified expression by a director reasonably purport to be a statement of personal knowledge or only of belief? See *Marsh v. Falker* (1869) 40 N. Y. 563. Where the corporate by-laws impose the duty of inspecting the books weekly, directors will be held to their statements of assets and liabilities as of personal knowledge. *Solomon v. Bates* (1896) 118 N. C. 311, 24 S. E. 478. But, as indicated in the instant case, the fact that public credence is placed in the statement of the director will not, in the eyes of the courts, raise such an estoppel. On the other hand, the public is entitled to construe an unqualified statement by the president of the corporation, exactly similar to that in the instant case, as founded in personal knowledge. *Bystrom v. Villard* (1916) 175 App. Div. 433, 162 N. Y. Supp. 100; but *cf. Kountze v. Kennedy* (1895) 147 N. Y. 124, 41 N. E. 414. The same conception of the functions of the director which governs the present case is embodied in the British Companies Act, 1908, 8 Edw. VII, c. 69, §84, withholding liability for false statements authorized by directors which they reasonably believe to be true. It may be argued that the rule thus formulated accords with the understanding and usage of the business world. But it can scarcely be doubted that it places a premium upon irresponsible statements by directors on matters of public moment. Ehrich, Promoters, §207.

DIVORCE—WILFUL DESERTION—EFFECT OF INSANITY.—The plaintiff wife sought an absolute divorce on the statutory ground of wilful desertion for a period of three years. Va. Code (Pollard 1916) §2257. It appeared that the defendant husband had wilfully deserted her, but before the statutory period elapsed he was adjudged insane and confined in an asylum. *Held*, a decree of divorce could not be granted. *Wright v. Wright* (Va. 1919) 99 S. E. 515.

Under statutes allowing divorce for desertion the plaintiff must prove both the absence of the other spouse and the intent not to re-

turn, *Matthews v. Matthews* (1910) 112 Md. 582, 77 Atl. 249; see *Foster v. Foster* (1916) 225 Mass. 183, 114 N. E. 200, but this intent need not exist at the time of the abandonment, and in such a case the statutory period does not begin to run until the intent is formed. *Taylor v. Taylor* (1910) 112 Md. 666, 77 Atl. 133; *Pinkard v. Pinkard* (1855) 14 Tex. 356. The absence must continue to be wilful throughout the whole statutory period, *Blandy v. Blandy* (1902) 20 App. D. C. 535; *Albee v. Albee* (1892) 141 Ill. 550, 31 N. E. 153; *contra*, *Douglass v. Douglass* (1871) 31 Iowa 421, but, once established, the continuance of the intent will ordinarily be presumed, *cf. Purnell v. Purnell* (N. J. 1908) 70 Atl. 187; see *Burk v. Burk* (1883) 21 W. Va. 445, 450, unless there is evidence of unequivocal acts on the part of the defendant showing his desire to return. *Holschbach v. Holschbach* (Mo. App. 1916) 184 S. W. 155; *Conlin v. Conlin* (1914) 163 Iowa 420, 144 N. W. 1005. If the statutory period has run the subsequent insanity of the deserting spouse will not bar the action; *Fisher v. Fisher* (1903) 54 W. Va. 146, 46 S. E. 118; *Harrigan v. Harrigan* (1902) 135 Cal. 397, 67 Pac. 506; but where, as in the principal case, the defendant becomes insane before it has run, it is obvious that the desertion ceases, since a lunatic is legally incapable of harboring the necessary intent. *Gordon v. Gordon* (N. J. 1918) 105 Atl. 242; *Kirkpatrick v. Kirkpatrick* (1908) 81 Neb. 627, 116 N. W. 499; *contra*, *Douglass v. Douglass*, *supra*.

INJUNCTION — CRIMINAL PROSECUTIONS — FEDERAL OFFICERS. — The United States Deputy Collector of Internal Revenue interpreted the War Time Prohibition Act to include non-intoxicating beer. The plaintiff filed a bill for an injunction restraining the Collector and the United States District Attorney from instituting criminal proceedings under the Act thus interpreted, even though no prosecution had been threatened. Upon motion of the defendants to dismiss the bill, *held*, that a temporary injunction would issue. *Hoffman Brewing Co. v. McElligott* (D. C., S. D., N. Y., 1919) 259 Fed. 321.

Ordinarily a court of equity will not interfere with a criminal prosecution, as such an interference would be an invasion of the jurisdiction of the criminal courts. *In re Sawyer* (1888) 124 U. S. 200, 8 Sup. Ct. 482; *Davis v. Fortinberry* (Miss. 1917) 75 So. 119. The facts on which a complainant would rely in his bill could be set up as a defense to the criminal prosecution, *Thompson v. Tucker* (1905) 15 Okla. 486, 83 Pac. 413; *Southern Express Co. v. City of High Point* (1914) 167 N. C. 103, 83 S. E. 254, and the same rules apply to the enforcement of valid legislative enactments. *Moss & Co. v. McCarthy* (C. C. 1911) 191 Fed. 202; *Sullivan v. San Francisco Gas & Electric Co.* (1905) 148 Cal. 368, 83 Pac. 156. But equity will restrain prosecution under unconstitutional statutes; *Truax v. Raich* (1915) 239 U. S. 33, 36 Sup. Ct. 7; see *Benz v. Kremer* (1910) 142 Wis. 1, 125 N. W. 99; and where a substantial property right is involved the jurisdiction which the court ordinarily acquires in such cases will not be defeated merely because criminal